

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

Pennsylvania Public Utility )

Commission's Petition for Delegation of )

Additional Authority to Implement Number )

Conservation Measures )

CC Docket No. 96-98

NSD File No. L-99-101

DA 00-281

**COMMENTS OF AT&T CORP.**

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp.

("AT&T") hereby submits its comments on the Pennsylvania Public Utility Commission's

("PAPUC") December 27, 1999 petition for additional authority to implement number

conservation measures ("Petition").

Half of the nation's state commissions have now filed petitions<sup>1</sup> seeking a broad delegation of power over number administration pursuant to the Commission's Pennsylvania Order.<sup>2</sup> On September 15, 1999, the Commission granted in part waiver requests by the state commissions for California, Florida, Massachusetts and New York that sought authority that was

<sup>1</sup> As of the date of the instant pleading, at least twenty-five state commissions have filed petitions seeking delegated authority over number administration. In addition to the PAPUC petition, petitions have been filed by state commissions from Arizona, California, Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Kentucky, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oregon, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.

<sup>2</sup> In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009 (1998) ("Pennsylvania Order").

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substantively identical in large measure to that the PAPUC seeks here. Two weeks later, the Commission granted the Maine commission -- which sought relief from the alleged burdens of NPA proliferation in a state that has only one area code -- authority essentially identical to that granted in the September 15<sup>th</sup> waivers. On November 30, 1999, the Commission granted five additional state waiver requests, authorizing the state commissions for Connecticut, New Hampshire, Ohio, Texas, and Wisconsin to implement some or all of the same conservation measures permitted by the four original waivers.

Because the many state commission numbering petitions filed to date largely seek the same relief and raise substantively identical claims, AT&T will not burden the record by repeating the arguments it has offered in response to those previous waiver requests, but instead hereby incorporates into these comments by reference its prior pleadings concerning each of the state petitions, including those seeking to impose technology-specific overlays. In addition, AT&T hereby incorporates into this pleading by reference its pleadings addressing the Commission's Numbering Resource Optimization NPRM ("NRO NPRM").<sup>3</sup>

In addition to seeking powers delegated in the ten previous waivers, the PAPUC requests forms of authority that the Commission expressly refused to grant in those decisions. The Petition offers no grounds on which the Commission can or should revisit its prior rulings, and no evidence that calls those decisions into question. Accordingly, these requests should be denied.

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<sup>3</sup> Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999 ("NRO NPRM").

First, the Petition seeks to require carriers “to assign numbers from an NXX code to end users within six months of receiving the code.”<sup>4</sup> In its Wisconsin Waiver Order, the Commission expressly refused to grant this authority to a state commission, on the grounds that the issue is under consideration as part of the ongoing NRO NPRM.<sup>5</sup> The PAPUC does not (and cannot) distinguish its request from the Wisconsin commission’s, and the Commission should reject it on the same grounds.

Second, the PAPUC also requests power to “initiate rationing prior to arriving at an area code relief plan.”<sup>6</sup> Although the Commission granted such authority to the California commission based on unique requirements in that state’s laws, it has repeatedly refused to grant similar authority to other state commissions, and should do so here as well.<sup>7</sup>

Third, the PAPUC seeks authority to implement unassigned number porting (“UNP”) and individual telephone number pooling (“ITN”).<sup>8</sup> The Commission unequivocally concluded in its

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<sup>4</sup> Petition, p. 14.

<sup>5</sup> Order, Petition of the Public Service Commission of Wisconsin for Delegation of Additional Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-64, released November 30, 1999, ¶ 17 (“Wisconsin Waiver Order”).

<sup>6</sup> Petition, p. 14.

<sup>7</sup> See, e.g., Wisconsin Waiver Order, ¶ 22 (“In prior orders, the Commission has declined to grant state commissions authority to adopt NXX code rationing procedures prior to adopting an area code relief plan, except in the most extreme circumstances. To the extent that Wisconsin is requesting authority to adopt rationing measures prior to having decided on a specific plan for area code relief, absent a demonstration of such extreme circumstances, we decline to grant this aspect of Wisconsin’s petition.”).

<sup>8</sup> See Petition, pp. 15-16.

prior numbering waiver orders that UNP and ITN are “currently at too early a stage of development to order implementation,” although carriers may engage in UNP on a voluntary basis.<sup>9</sup> The Petition offers no evidence that purports to show that the Commission should revisit this conclusion.

Fourth, the Petition requests authority to order carriers to “expand deployment of” local number portability (“LNP”).<sup>10</sup> As a preliminary matter, because this request is predicated on the PAPUC’s desire to order ITN and UNP, the Commission should reject it on the grounds that, as shown above, the PAPUC may not order those conservation measures in any event. Further, the Commission has established the current timetables and requirements for carriers’ LNP implementation after full consideration and extensive public comment, and nothing in the Petition purports to challenge those rulings.<sup>11</sup> Indeed, after the Petition was filed, the Commission reiterated its prior decision to allow wireless carriers until November 24, 2002 to

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<sup>9</sup> See Order, New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-21, released September 15, 1999, ¶ 37; Order, Massachusetts Department of Telecommunications and Energy’s Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781 and 978 Area Codes, CC Docket No. 96-98, NSD File No. L-99-19, released September 15, 1999, ¶ 43 (“Massachusetts Waiver Order”) (addressing UNP only).

<sup>10</sup> Petition, p. 16.

<sup>11</sup> See generally Comments of AT&T Corp. in NRO NPRM, filed July 30, 1999, pp. 43-47 (“There is simply no reason either to delay the implementation of nationwide pooling until all carriers obtain LNP capability or to try to force non-LNP capable carriers into a regime for which they lack the technical means.”).

provide LNP, and expressly rejected claims that this deadline would “hamper the implementation of number optimization solutions that require LNP technology.”<sup>12</sup>

Fifth, the PAPUC seeks authority to implement a technology-specific or service-specific NPA overlay.<sup>13</sup> The Petition presents no evidence or argument to support this request, and fails to address in any fashion -- much less to refute -- the arguments that have already been placed in the record of the Commission's ongoing proceedings concerning technology-specific overlays.<sup>14</sup> The Commission has repeatedly, and correctly, refused to permit technology-specific or service-specific NPA overlays, and the Petition simply offers nothing on which the Commission could rest a decision to amend or waive those prior rulings.

The state numbering petitions granted to date strongly suggest that the Commission is prepared to grant to any state that requests it authority that, by the Commission's own admission, “goes beyond the parameters outlined in the [Pennsylvania Order].”<sup>15</sup> For example, the Commission based its grant of additional authority to the Maine commission on the fact that the

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<sup>12</sup> Order on Reconsideration, Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, WT Docket No. 98-229, FCC 00-47, released February 23, 2000, ¶ 6.

<sup>13</sup> See Petition, p. 16.

<sup>14</sup> See Reply Comments of AT&T Corp., filed August 30, 1999, pp. 43-47 and Comments of AT&T Corp., filed July 30, 1999 pp. 67-69 in NRO NPRM; Comments of AT&T Corp., filed June 14, 1999 in California Public Utilities Commission Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code, NSD 99-36; Comments of AT&T Corp., filed April 5, 1999, pp. 67-69 in Petition of the Massachusetts Department of Telecommunications and Energy for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes, NSD-L-99-17.

<sup>15</sup> E.g., Massachusetts Waiver Order, ¶ 6.

207 NPA was nearing exhaust “despite the existence of a high number of unused numbers in this code.”<sup>16</sup> The Commission has long recognized, however, that because the current numbering system requires the assignment of numbers in blocks of 10,000, and requires wireline carriers to obtain an NXX code in every rate center they wish to serve (there are over 220 rate centers in Maine’s single area code), CLECs will almost inevitably have a relatively large proportion of “unused numbers” when they enter the market.<sup>17</sup>

The rationale underlying the waiver granted to the Maine commission thus potentially applies with equal force to virtually every NPA. Moreover, because no state numbering petition filed to date provides information as to how the petitioning state commission proposes to implement programs such as number pooling or number reclamation, the potential for widely varying standards -- or even outright conflicts among the states -- is high.<sup>18</sup> In effect, the Commission appears to have modified its longstanding numbering rules and policies without adequate prior notice, and without offering an adequate explanation for abandoning its previous

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<sup>16</sup> Order, Maine Public Utilities Commission Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-27, ¶ 5, released September 28, 1999.

<sup>17</sup> See, e.g., NRO NPRM, ¶ 20.

<sup>18</sup> For example, while the Commission’s state numbering waiver orders urge state commissions to adhere to “industry adopted thousands-block pooling guidelines,” it permits them to modify those guidelines after “consult[ing] with the industry.” E.g., Order, Petition of the California Public Utilities Commission for Delegation of Additional Authority, CC Docket No. 96-98, NSD File No. L-98-136, ¶ 14, released September 15, 1999 (“California Waiver Order”). Other aspects of the numbering waivers granted to date are similarly unclear as to precisely what constraints the Commission imposed on state commissions’ discretion to adopt state-specific numbering requirements.

conclusion that permitting state commissions to proceed with numbering administration measures “on a piecemeal basis” could “jeopardiz[e] telecommunications services throughout the country.”<sup>19</sup>

AT&T already has begun to work with the state commissions that have obtained numbering waivers, and intends to continue to cooperate fully in their efforts to implement thousands block pooling and the other measures the Commission recently authorized. AT&T also intends to participate in similar efforts by other state commissions that may obtain grants of numbering authority. Nevertheless, AT&T continues to urge the Commission to move forward promptly with the adoption of national conservation standards, and to limit the number of states to which it grants numbering waivers. As the state commissions’ *seriatim* requests for delegated authority make clear, the circumstances prompting the instant petition are not unique to any one state, or even to a small group of states, but are national issues for which national solutions are essential. If the Commission were to grant authority over number conservation to each state that has requested (or that is likely to request) that power, the integrity of the NANP could be threatened by a myriad of competing and conflicting standards, and the timeline for implementing national number optimization policies would be significantly lengthened because carriers would be forced to devote their limited resources to developing and implementing multiple state trials.<sup>20</sup>

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<sup>19</sup> Pennsylvania Order at 19022 ¶ 21. As AT&T has stated previously, it does not contend that state commissions are incapable of crafting workable numbering policies, but rather that the decisions of dozens of autonomous regulatory bodies will inevitably diverge from -- and even directly conflict with -- one another.

<sup>20</sup> Although the numbering waivers granted to date express the Commission’s willingness to

(footnote continued on next page)

Finally, it is imperative that the Commission make clear in any order delegating authority over numbering that a state may not refuse to implement needed NPA relief while it undergoes preparations for number conservation measures that it hopes may eventually permit it to extend the life of NPAs. Despite the Commission's explicit warning that the numbering waivers it has granted to date "are not intended to allow [state commissions] to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief,"<sup>21</sup> some states already have suggested that they intend to utilize rationing to artificially extend the life of existing NPAs while they prepare for pooling or other measures. Although the Commission's prior waiver decisions admonished that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources,"<sup>22</sup> there is a very real danger that that situation will occur.<sup>23</sup> In any subsequent numbering waiver that it may grant, the Commission should clarify that it does not -- and did not previously -- intend to permit state

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ensure that state commissions adhere to the "competitive neutrality" requirement and other provisions of its rules, the reality is that carriers seeking to compete in rapidly changing telecommunications markets can ill afford the delay and uncertainty that inevitably result from disputes over varying state-created numbering policies.

<sup>21</sup> E.g., California Waiver Order, ¶ 9.

<sup>22</sup> E.g., id., ¶ 9.

<sup>23</sup> See generally, e.g., Letter from Tina S. Pyle, MediaOne Group, Inc., to Yog R. Varma, Deputy Bureau Chief, Common Carrier Bureau, Federal Communications Commission (September 29, 1999) (documenting MediaOne's inability to obtain numbering resources necessary to provide residential wireline telephone service to "over 290,000 additional households").



commissions to deny numbering resources to carriers during any interim period while a state prepares to implement optimization measures.

### CONCLUSION

AT&T urges the Commission to establish national conservation standards as expeditiously as possible to provide necessary relief to all states, carriers, and consumers on an equitable basis; and to act on the instant petition in a manner consistent with AT&T's comments and reply comments concerning prior state commission numbering waiver requests and the NRO NPRM.

Respectfully submitted,

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March 14, 2000

**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 14<sup>th</sup> day of March, 2000, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the party listed below:

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March 14, 2000